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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Christine M. Searle,

Plaintiff,

v.

John M. Allen (“Allen”), in his individual  
and official capacity, as The Treasurer of  
Maricopa County; Arapaho LLC;  
American Pride Properties, LLC; Kristin  
Mayes, in her official capacity, as the  
Attorney General of the State of Arizona;  
John Doe; Jane Doe; Black Corporations;  
White Partnerships; and Green Limited  
Liability Companies,

Defendants.

Case No. CV-24-00025-PHX-JJT

**JOINT STIPULATED MOTION  
TO DISMISS WITH PREJUDICE  
ALL CLAIMS AGAINST  
DEFENDANT ATTORNEY  
GENERAL KRISTIN K. MAYES**

1 Pursuant to Federal Rule of Civil Procedure 41(a)(2), Plaintiff Christine M. Searle  
2 and Defendant Arizona Attorney General Kristin K. Mayes (“the moving parties”) respectfully ask the Court to dismiss with prejudice all claims against the Attorney  
3 General. In so moving, Attorney General Mayes acknowledges and states the following  
4 view of the law:  
5

6 1. In *Tyler v. Hennepin County*, 598 U.S. 631 (2023), the U.S. Supreme Court  
7 confirmed that states can collect “taxes on property,” and “[i]n collecting these  
8 taxes, [states] may impose interest and late fees,” *id.* at 637-38, as well as “seize  
9 and sell property, including land, to recover the amount owed,” *id.* at 638, 639.  
10 The Supreme Court held, however, that states cannot “confiscate more property  
11 than [is] due,” which violates the Fifth Amendment’s Takings Clause as  
12 incorporated against the states through the Fourteenth Amendment. *See id.* at 637,  
13 639 (citation omitted).

14 2. Consistent with *Tyler*, Arizona’s statutory scheme recognizes that when the  
15 State forecloses on an unsatisfied tax lien, it cannot confiscate more than it is owed.  
16 *See* A.R.S. §§ 42-18303(C), 42-18113(B)(1). Rather, the State must sell the  
17 encumbered property, subtract the amount owed—including interest, penalties,  
18 fees, and costs—and return the “balance remaining” to “the owner of the property  
19 who was dispossessed by the sale.” A.R.S. § 42-18303(C); *see id.* § 42-18113(A),  
20 (B)(1) (providing that a county treasurer can assign the lien to the State, and that  
21 taxes “assessed against that property are not payable until they have been derived  
22 from the sale or redemption of the property” or resale of the lien).

23 3. Arizona’s statutory scheme allows county treasurers to sell tax liens to  
24 private parties to “secure the payment of unpaid delinquent taxes.” A.R.S. § 42-  
25 18101(A); *id.* § 42-18114 (authorizing sale to “the person who pays the whole  
26 amount of delinquent taxes, interest, penalties and charges due on the property,  
27 and who in addition offers to accept the lowest rate of interest on the amount so  
28 paid to redeem the property”). When county treasurers sell tax liens to private

1 parties, they do so on the State's behalf. *See id.* § 42-18001(A)(1).

2 4. Under *Tyler*, the State cannot “extinguish a property interest that it  
3 recognizes everywhere else to avoid paying just compensation when it is the one  
4 doing the taking.” 598 U.S. at 645. And because the State cannot authorize others  
5 to do that which the State is not empowered to do, county treasurers cannot sell to  
6 private parties more of a property interest than the State itself could be assigned  
7 and retain. Thus, when a private party purchases a tax lien pursuant to A.R.S. §§  
8 42-18101 *et seq.*, only the interest in the tax lien (including authorized fees, costs,  
9 and interest) is conveyed.

10 5. Accordingly, under *Tyler*, A.R.S. § 42-18204(B) is unconstitutional to the  
11 extent it purports to extinguish a dispossessed owner's property interest in the sale  
12 proceeds or value of the equity that exceed what the State is owed and could retain  
13 by statute. Further, to the extent a private party retains the excess proceeds of a  
14 sale or value of the equity in a home that exceeds what the State could retain by  
15 statute, that result is an unconstitutional taking under *Tyler*.

16 6. Accordingly, the moving parties agree that:

- 17 a. The State does not presently possess any property or funds that  
18 belong to Plaintiff;
- 19 b. given the Attorney General's view of the law in light of *Tyler*,  
20 Plaintiff has thus received all the relief from the Attorney General to which  
21 she is entitled and that the Attorney General can give with respect to  
22 Plaintiff's claims; and
- 23 c. the claims against the Attorney General should therefore be  
24 dismissed.

25 Notwithstanding the foregoing, Plaintiff reserves all claims, arguments, and other  
26 rights available by law with respect to the Maricopa County Treasurer John M. Allen,  
27 Arapaho LLC, and American Pride Properties LLC, and does not waive or forfeit any  
28 claims or arguments against the remaining private party defendants with respect to

1 Plaintiff's property interests.

2 For purposes of this stipulated dismissal, the Attorney General takes no position  
3 on the remaining issues in the case, including any defenses, which are for the private  
4 parties to resolve.

5 The moving parties agree that the Attorney General does not waive or forfeit any  
6 claims, defenses, arguments, or other rights available by law in future proceedings in this  
7 matter or any related matters, except to the extent that they contradict the  
8 acknowledgments and statements above.

9 For these reasons, the moving parties respectfully ask the Court to dismiss with  
10 prejudice all claims against the Attorney General and enter the proposed order attached  
11 herewith. The moving parties agree to bear their own costs and fees.

12  
13 RESPECTFULLY SUBMITTED this 20th day of March, 2024.

14 By: /s/ Grady J. Block

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20 By: /s/ Veronica Lucero

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By: /s/ Luci D. Davis (with permission)

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General Kristin K. Mayes*

**CERTIFICATE OF SERVICE**

I hereby certify that upon filing this Motion on this 20th day of March 2024, I shall cause a true and correct copy of the foregoing **JOINT STIPULATED MOTION TO DISMISS WITH PREJUDICE ALL CLAIMS AGAINST DEFENDANT ATTORNEY GENERAL KRISTIN K. MAYES** to be electronically circulated to the following counsel in this matter:

Arapaho LLC: John L. Lohr Jr., jll@hgplaw.com

American Pride Properties, LLC: John L. Lohr Jr., jll@hgplaw.com

Treasurer John Allen: Kim Miles, milesk@mcao.maricopa.gov  
Kate Kane, Katherine.Kane@mcao.maricopa.gov

/s/ William E. Trachman

William E. Trachman